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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/690,650	10/23/2003	Hiroshi Sahara	01306.000119	9168
5514	7590	08/17/2005		EXAMINER
FITZPATRICK CELLA HARPER & SCINTO 30 ROCKEFELLER PLAZA NEW YORK, NY 10112			LEE, SUSAN SHUK YIN	
			ART UNIT	PAPER NUMBER
			2852	

DATE MAILED: 08/17/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/690,650	SAHARA, HIROSHI	
	<b>Examiner</b> Susan S. Lee	<b>Art Unit</b> 2852	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on 03 June 2005.

2a)  This action is **FINAL**.                            2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

4)  Claim(s) 1,3-5 and 7-17 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5)  Claim(s) 11-13 and 17 is/are allowed.

6)  Claim(s) 1 and 3 is/are rejected.

7)  Claim(s) 4,5,7-10 and 14-16 is/are objected to.

8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on 03 June 2005 is/are: a)  accepted or b)  objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All    b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1)  Notice of References Cited (PTO-892)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3)  Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_

4)  Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_ .  
5)  Notice of Informal Patent Application (PTO-152)  
6)  Other: \_\_\_\_\_

## **DETAILED ACTION**

Upon reconsideration, the previous allowance of claim 2 that has now been incorporated in claim 1 is hereby withdrawn in view of the newly discovered reference to Shimra et al. (Japan, 522).

### ***Claim Objections***

Claims 5, 7-10, 14/5, 15/5, 14/7, 15/7, 14/8, 15/8, 14/9, 15/9, 14/10, 15/10, 14/11, 15/11, 14/12, 15/12, 14/13, 15/13, and 16 are objected to because of the following informalities:

As to claim 5, line 4, "the sheet" lacks antecedent basis.

As to claim 5, line 13, "the downstream-side end portion" lacks antecedent basis.

As to claim 14, line 2, "5 to 13" is incorrect because claim 6 has been cancelled.

As to claim 15, line 2, "5 to 13" is incorrect because claim 6 has been cancelled.

As to claim 16, line 19, "forma" is incorrect.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1 and 3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kida (4,914,484) in view of Shimura et al. (Japan, 522).

Kida discloses an image bearing member 24; a transfer means 27; a fixing means 39; and a transport guide member 38. The fixing speed is set slightly lower than the transfer speed (note abstract). Note column 5, lines 25 – column 27, line 8.

Kida differs from the instant invention by not disclosing a sheet transport guide is capable of forming a plurality of curves on the sheet between the transfer means and the fixing means in such a manner that in a downstream side of the transfer means, an upward curve protruding upwardly from a tangential line to a nip portion of the transfer means is formed; and in an upstream side of the fixing means, and a downward curve downwardly protruding from the tangential line to the nip portion of the fixing means is formed.

Shimura et al. discloses a guide member 22 with ribs that is located downstream side of the transfer means, an upward curve would form in a paper when it is moving towards the guide member 22 from the transfer means 15; and a guide 23 that is located in an upstream side of the fixing means, a downward curve would form in a paper when it is moving towards the fixing means. Note abstract.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the apparatus of Kida with that of Shimura et al. so that a recording material of various size and weights can be used regardless of environment. As to "the sheet transport guide means is capable of forming a plurality of curves on the sheet between the transfer means and the fixing means", this is considered intended

use since it has been held that the recitation that an element is "capable" of performing a function is not a positive limitation but only requires the ability to so perform. It does not constitute a limitation in any patentable sense. *In re Hutchison*, 69 USPQ 138.

Claim 4 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 5, 7-13, 14/5, 15/5, 14/7, 15/7, 14/8, 15/8, 14/9, 15/9, 14/10, 15/10, 14/11, 15/11, 14/12, 15/12, 14/13, 15/13, 16, and 17 are allowed over the prior art of record.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Susan S. Lee whose telephone number is 571-272-2137. The examiner can normally be reached on Mon. - Fri., 10:30-8:00, Second Monday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Art Grimley can be reached on 571-272-2136 or 571-272-2800 (Ext. 52). The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Susan S. Lee  
Primary Examiner  
Art Unit 2852

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